

# **EXHIBIT E**

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

IN RE: §  
§  
§  
SCOOBEEZ, ET ALr § CASE NO. 2:19-BK-14989-WB  
DEBTORS AND §  
§  
DEBTORS IN POSSESSION § JOINTLY ADMINISTERED:  
§ 2:19-BK-14991-WB  
§ 2:19-BK-14997-WB

ORAL AND VIDEOTAPED DEPOSITION OF  
DAVID OJEDA  
FEBRUARY 13, 2020

ORAL AND VIDEOTAPED DEPOSITION OF DAVID OJEDA,  
produced as a witness at the instance of the Secured  
Creditor and duly sworn, was taken in the above  
styled and numbered cause on Thursday, February 13,  
2020, from 9:09 a.m. to 1:02 p.m., before TAMARA  
CHAPMAN, CSR, CRR, RPR in and for the State of  
Texas, reported by computerized stenotype machine,  
at the offices of Bracewell, LLP, 111 Congress  
Avenue, Austin, Texas, pursuant to the Federal Rules  
of Civil Procedure and any provisions stated on the  
record herein.

Job No. 3980828

1 Logistics doesn't generate revenue. It's a spend.

2 Q. Okay. Have the costs in the last year  
3 increased or decreased for the program you oversee?

4 MR. DIAMANTATOS: Objection;  
5 foundation.

10:05

6 A. For the program that I oversee, decreased.

7 Q. Okay. Are you familiar with the term 1.0  
8 in reference to DSPs?

9 A. Yes.

10 Q. What does it mean to you?

10:05

11 A. It is a term that was -- it's a term that  
12 references a DSP who was there with the program at  
13 the very start of it, and ultimately a DSP that did  
14 not choose to move into a 2.0 program, so...

15 Q. And you just mentioned 2.0.

10:06

16 A. Correct.

17 Q. What is your understanding of what is a  
18 2.0 DSP?

19 A. There are -- so a 2.0 -- DSP 2.0 is a --  
20 a -- a DSP that enters in through the system, through 10:06  
21 the program through a completely different contract  
22 and process. Then -- I mean, they just enter through  
23 the DSP program through a different contract.

24 Q. And when you say "a different contract,"

25 what do you mean by "different contract"? 10:06

1 A. It's a 2.0 contract.

2 Q. And that contract is different than a 1.0  
3 contract?

4 A. Yes.

5 Q. How do you know they're different? 10:07

6 A. I've seen them.

7 Q. You've seen both versions?

8 A. Yes.

9 Q. And let me be more precise. Is the 2.0  
10 contract, other than the name of the DSP, the same? 10:07

11 A. Repeat it. I didn't completely...

12 Q. Sure. I apologize.

13 So other than just whoever is the DSP that  
14 is signing the contract, are the terms of the 2.0  
15 contract uniform across all 2.0s? 10:07

16 A. All 2.0s?

17 Q. Yes.

18 A. It's uniform across all 2.0s, yes.

19 Q. Okay. So now let me talk about the 1.0  
20 contract. Again, putting aside the name, are the  
21 terms of the 1.0 contract uniform? 10:07

22 MR. DIAMANTATOS: Objection;  
23 foundation.

24 A. It's my understanding they are, yes.

25 Q. Okay. And what is -- again, putting aside 10:07

1 the names, what do you understand are the differences  
2 between the 1.0 contract and the 2.0 contract?

3 A. The differences are that the 2.0, the vans  
4 are, one, a requirement. The training, onboarding  
5 and training for a 2.0 is a requirement. The -- 10:08  
6 there are -- I'm trying to think of other like core  
7 requirements. The rate -- the way the rates are paid  
8 out are -- are different. The terms that they're  
9 being paid out are -- are different. Those are the  
10 things that stand out. 10:08

11 Q. Are you aware of any 1.0 DSPs still  
12 operating in the stations you currently oversee?

13 A. Not that I oversee. I don't -- I try not  
14 to -- yeah, not that I oversee, no.

15 Q. So the answer is no? 10:09

16 A. I'm trying to think of one company that's  
17 out there, but I -- I think they migrated, so the  
18 answer would be no.

19 Q. The one that you think that migrated,  
20 which one is that? 10:09

21 A. Railcrew. I think they were migrated.

22 Q. For the stations that you oversaw in 2019  
23 before you switched to Houston, putting aside  
24 Scoobeez, are you aware of any other 1.0s that still  
25 operate? 10:09

1 reimbursement for great scores.

2 Q. Okay. And then those are examples of --  
3 of good -- great performance.

4 A. Yes.

5 Q. How about not-so-great performance? 10:34

6 A. We try to help them. We try to figure out  
7 where the -- we -- we try to figure out where the  
8 gaps are and then ultimately close down those gaps.

9 Q. And have there ever been any examples  
10 where a DSP has consistently performed poorly on a 10:34  
11 scorecard that they get terminated?

12 MR. DIAMANTATOS: Objection --

13 Q. That you know of?

14 A. No.

15 MR. DIAMANTATOS: Objection; form, 10:34  
16 foundation.

17 Q. No. Have you ever taken any adverse  
18 action against a DSP based on scorecard performance?

19 A. Not adverse, no.

20 (Exhibit 2 was marked.) 10:34

21 Q. Okay. Let's mark this Exhibit 2.

22 Exhibit 2 is a document Bates-stamped AMAZON\_H001- --

23 A. Is this for me?

24 Q. Yes. I'm sorry.

25 000191 to 197. It is titled, "DSP 10:35

1 overall standing is great.

2 Do you see that?

3 A. Yes.

4 Q. Do you know how that score is -- not --  
5 not for this particular scorecard, but do you know 10:36  
6 how the -- the score of great is calculated?

7 A. No.

8 Q. Okay. To the best of your knowledge,  
9 between January 1st, 2019, Week 1, and Week 32, do  
10 you know whether Scoobeez's performance at DAU1 had 10:36  
11 ever been below grade?

12 A. I don't know that, no.

13 Q. Okay. If you could stay on this first  
14 page --

15 A. Okay.

16 Q. -- do you see "Announcements"?

17 A. Yes.

18 Q. And then underneath "Announcements," it  
19 says, "Delivery Excellence Performance Program  
20 Announced." 10:36

21 A. Uh-huh.

22 Q. And it says below that, "On  
23 September 29" --

24 A. Uh-huh.

25 Q. -- "we will launch the Delivery Excellence 10:36

1 Performance."

2 A. Uh-huh.

3 Q. It says, "SCBZ at DAU1, Week 49, 2019."

4 A. Uh-huh.

5 Q. Is this another scorecard?

10:38

6 A. Yes.

7 Q. And this is a scorecard for Scoobeez?

8 A. Yes.

9 Q. At the DAU1 station?

10 A. Yes.

10:38

11 Q. Week 49. Right?

12 A. Correct.

13 Q. So that's early/mid-December?

14 A. Late November.

15 Q. Close enough. Right?

10:38

16 A. Yeah.

17 Q. During the peak period?

18 A. Yes.

19 Q. Okay. And according to this scorecard,

20 Scoobeez's score was again great?

10:39

21 A. Correct.

22 Q. You were overseeing Scoobeez at DAU1 up

23 until sometime in late September or early October.

24 Right?

25 A. Correct.

10:39

1 Q. Did you have any concerns with Scoobeez's  
2 performance at DAU1 between Week 32, which is  
3 Exhibit 2, and whenever you left?

4 A. No.

5 Q. Since you have transitioned to Houston, 10:39  
6 have you had any occasion to learn about the  
7 performance of Scoobeez at any of the stations in  
8 Texas?

9 A. No.

10 Q. Okay. So then I'm -- I'm not going to ask 10:39  
11 you about anything after you left.

12 A. Okay.

13 Q. Okay?

14 (Exhibit 4 was marked.)

15 Q. Next exhibit, Exhibit 4. 10:40

16 A. Thank you.

17 Q. Exhibit 4 is a document Bates-stamped  
18 AMAZON\_H000867 to 873, "DSP Delivery Excellence  
19 Performance. SCBZ at DDA1, Week 38, 2019."

20 Mr. Ojeda, do you recognize this document? 10:40

21 A. Yes.

22 Q. This is another scorecard. Yes?

23 A. Yes.

24 Q. For Scoobeez?

25 A. Yes. 10:40

1 Q. This is at the -- the Dallas 1 station?

2 A. Yes.

3 Q. And that's the smaller Dallas station.

4 Right?

5 A. That's right. 10:40

6 Q. And this is for Week 38?

7 A. Correct.

8 Q. Around the fall of 2019?

9 A. Correct.

10 Q. Okay. Now, here, it says the overall 10:40

11 standing is fantastic. Correct?

12 A. Correct.

13 Q. What does it take to get a fantastic score  
14 versus a great score?

15 MR. DIAMANTATOS: Objection; 10:41

16 foundation.

17 A. So I don't have all of the algorithms that  
18 create the score, but to be fantastic means you have  
19 to execute and meet all the criteria that are -- that  
20 are laid out on the scorecard. 10:41

21 Q. Is it difficult for a DSP to obtain a  
22 fantastic score?

23 A. Yes. Is it difficult.

24 Q. At DDA1 -- this may have been right around  
25 the time you transitioned, but Week 38 is -- 10:41

1 period.

2 Q. Do you know how many drivers Let It Ride  
3 employed?

4 A. I don't. I don't recall.

5 MR. WINSTON: Do you want to take 11:25  
6 another couple-minute break, unless you want to  
7 keep going?

8 (Discussion off the written record.)

9 MR. WINSTON: Off the record.

10 THE VIDEOGRAPHER: Going off the 11:25  
11 record. The time is 11:25.

12 (Break.)

13 THE VIDEOGRAPHER: Back on the  
14 record. The time is 11:34.

15 Q. Mr. Ojeda, are you aware that Amazon has 11:34  
16 sought to terminate its relationship with Scoobeez?

17 A. Yes.

18 Q. How did you learn that Amazon is seeking  
19 to terminate its relationship with Scoobeez?

20 MR. DIAMANTATOS: Objection only 11:34  
21 to the extent that that would call upon  
22 privileged communication. Anything outside of  
23 that the witness can answer.

24 A. So we had a -- we had a conference call  
25 indicating that there would -- that Scoobeez would be 11:35

1 exiting. And at this point in time that was kind of  
2 an indicator that was sent to the leadership that had  
3 Scoobeez in one of their stations, and I was a part  
4 of that call. And so there was a signal that was  
5 sent to the team, alerting us that they were going to 11:35  
6 be exited.

7 Q. All right. So let me start with the  
8 conference call indicating that there -- that  
9 Scoobeez would be exiting.

10 A. Okay.

11:35

11 Q. When was that conference call?

12 A. Sometime in -- in October.

13 Q. 2019?

14 A. Yes. Sorry. 2019.

15 Q. Do you recall with more precision the date 11:36  
16 in October?

17 A. I don't have the specific date.

18 Q. Okay. Who was on the conference call?

19 A. Jimmy, Micah, Brittany, and any of the  
20 leadership associated to -- any of the -- any of the 11:36  
21 L7 leaders, regional leaders that they operated in.

22 Q. By this time had you gone to -- had you  
23 moved to Houston?

24 A. Yes.

25 Q. Does Scoobeez operate in any of the 11:36

1 I mean --

2 Q. If you don't know, you don't know.

3 A. Yeah. I would say they're one of our  
4 larger DSPs.

5 Q. Okay. That's fine.

6 A. I would consider them a large DSP.

7 Q. Okay. When you were the DSP account  
8 manager, did you ever have any discussions with any  
9 representatives of Scoobeez regarding the terms of  
10 its contract? 12:16

11 A. Yes.

12 Q. What was discussed, that you can recall?

13 A. The rates, generally.

14 Q. What about the rates?

15 A. There were -- there were points in time 12:17  
16 where there was a request to increase the rates.

17 Q. Anything else you can recall about rates  
18 besides requests to increase them?

19 A. Not at the moment.

20 Q. Okay. And then let's put aside rates for 12:17  
21 a second. Do you recall any other discussions about  
22 the terms of the contract between Scoobeez and  
23 Amazon?

24 A. No.

25 Q. No. In any of the meetings that you had 12:17

1                   Kerry.

2                   That's Kerry Person?

3                   A.    Correct.

4                   Q.    What level is Kerry Person again?

5                   A.    He's a VP.

12:31

6                   Q.    VP.   So this is -- that's an L10?

7                   A.    That's right.

8                   Q.    Okay.   So you see Mr. Ohanessian's writing  
9                   to Mr. Person on February 4th in the second  
10                   paragraph --

12:31

11                   A.    Okay.

12                   Q.    -- of his email on February 4th, it says,  
13                   "Scoobeez team worked diligently to meet in every  
14                   stations peak expectations and we did a great job in  
15                   the stations.   We also" -- "We were also asked  
16                   launched the Pasadena location to support peak needs,  
17                   which we did, and now in Pasadena we have become a  
18                   top producing DSP."

12:31

19                   Do you see that?

20                   A.    Yes.

12:31

21                   Q.    You have -- do you have any involvement  
22                   with Scoobeez in Pasadena?

23                   A.    Not directly.

24                   Q.    Okay.

25                   A.    Indirectly, yes.

12:31

1 Q. Okay. When -- when the -- Mr. Ohanessian  
2 wrote, "Scoobeez team worked diligently to meet in  
3 every stations peak expectations and we did a great  
4 job in the stations."

5 Do you have any reason to disagree with 12:32  
6 what Mr. Ohanessian asserted in that sentence?

7 A. No, sir.

8 Q. Now, you said you had some indirect  
9 involvement with Pasadena.

10 A. Uh-huh.

11 Q. Right?

12 A. Yes.

13 Q. Do you have any reason to disagree with  
14 what Mr. Ohanessian wrote on February 4th with  
15 respect to the Pasadena location? 12:32

16 A. In which portion?

17 Q. Sure. How about the one where he was --  
18 where he says, "We were asked to launch the Pasadena  
19 location." There is a typo. I'm going to skip the  
20 typo. 12:32

21 A. Okay.

22 Q. Do you have any reason to disagree with  
23 that statement?

24 A. No.

25 Q. Do you have any reason to agree that was 12:32

1 to support peak needs?

2 A. No.

3 Q. Do you have any disagreement with that  
4 that's, in fact, what Scoobeez did?

5 A. No. 12:32

6 Q. And do you have any disagreement that they  
7 have become a top producing DSP in Pasadena?

8 A. No.

9 Q. Okay. Now, in the third paragraph,

10 Mr. Ohanessian writes, "We have also been trying to 12:33  
11 move to DSP 2.0, we had a contract sent to us at the  
12 end of the year to migrate to 2.0."

13 Do you see that?

14 A. Yes.

15 Q. Is that a -- was that a true statement as 12:33  
16 written?

17 MR. DIAMANTATOS: Objection;  
18 foundation.

19 A. That is true.

20 Q. And his next sentence says, "I had a 12:33  
21 discussion with David and we agreed to postpone the  
22 migration during peak to the beginning of the year so  
23 we do not interrupt peak operations."

24 Do you see that?

25 A. Yes. 12:33

1 Q. Do you recall having a discussion with  
2 Mr. Ohanessian about Scoobeez migrating to 2.0 and  
3 postponing the migration?

4 A. I recall giving them the opportunity to  
5 migrate and them choosing not to and their desire was 12:34  
6 to postpone it.

7 Q. So when -- when this sentence says, "I had  
8 a discussion with David and we agreed to postpone the  
9 migration," you disagree with that statement?

10 A. "Agreed to postpone the migration," yes, I 12:34  
11 agree with it.

12 Q. Okay. Did Amazon at any time offer to  
13 Scoobeez a contract to migrate to 2.0?

14 A. Yes.

15 Q. When did that occur? 12:34

16 A. 20- -- sometime 20- -- 2018. Really  
17 probably -- I don't have a specific date, but I know  
18 that there was several opportunities for them to --  
19 to accept the offer.

20 Q. Several opportunities in 2018? 12:35

21 A. Uh-huh.

22 Q. How about in 2019?

23 A. No.

24 Q. Did Amazon ever tell Scoobeez it was  
25 revoking the offer to become a 2.0? 12:35

1 MR. DIAMANTATOS: Objection;

2 foundation, form.

3 If you know.

4 A. I would say the window of opportunity had  
5 closed. They were given the opportunity to 12:35  
6 transition in 2018. 2019, there were no more  
7 migrations in 2019.

8 Q. What was that window of opportunity? What  
9 was the range of it?

10 MR. DIAMANTATOS: Objection; 12:35

11 foundation.

12 Go ahead.

13 A. Say summer -- late summer of 2018  
14 through -- through November. So through the series  
15 of fall, September through, say, November. 12:35

16 Q. Are you aware of anyone communicating  
17 to -- anyone at Amazon communicating to Scoobeez that  
18 that was the window, so late Sept- -- late summer  
19 2018 to November 2018?

20 A. No. You asked me what the window was. I 12:36  
21 would say that -- as time went through, there was an  
22 offer. They were presented the offer. And at that  
23 time, they did not want to accept the offer.

24 Peak came around. That's why I'm saying  
25 like December because then they basically said we're 12:36

1 just going to postpone it. We don't want to do that  
2 now during peak and so -- so they did and then 2019  
3 came around and we weren't offering them migration  
4 any longer.

5 Q. Okay. I want to be a little more precise 12:36  
6 with my question.

7 A. Okay.

8 Q. The window that you had indicated late  
9 summer 2018 to November 2018. Are you aware of  
10 anyone at Amazon saying to Scoobeez, this is the 12:36  
11 window, that's it, this is the window, you're outside  
12 the window, you don't get it? Did it -- are you  
13 aware of that?

14 A. No.

15 Q. Did you ever communicate to Scoobeez that 12:37  
16 if you don't accept this by November 2018, you're  
17 going to be out of luck migrating to 2.0?

18 A. No.

19 Q. Okay. And when you read this February 4th  
20 email, would you agree with me that it appears that 12:37  
21 Mr. Ohanessian is trying to accept the contract to  
22 migrate to 2.0?

23 MR. DIAMANTATOS: Objection; form,  
24 foundation, calls for speculation, and to the  
25 extent it calls for a legal conclusion. 12:37

1 Go ahead.

2 A. I think he's trying to accept it after, 12:37

3 you know -- you said -- you said February 4th or

4 the --

5 Q. That's the email we're looking at, yes. 12:37

6 A. Okay.

7 Q. Okay. In fact, he says in the third

8 sentence in that third paragraph, "Since the

9 beginning of the year we have been reaching out to

10 everyone we can, including Fred and David to sign the 12:37

11 DSP 2.0 but the link we received is not working. I'm

12 not sure how to get the migration done without a link

13 that works or any communication."

14 Did you see that?

15 A. Yes, I saw that. 12:38

16 Q. When you read that, does that give you the

17 impression that Scoobeez is trying to migrate to 2.0?

18 MR. DIAMANTATOS: Objection; form,

19 foundation, calls for speculation.

20 Go ahead. 12:38

21 A. I mean, it gives me an indication that if

22 he had used that link in 2019, it would have worked.

23 Q. Okay. Let's go to the -- the

24 February 28th email, which is the first on the

25 doc- -- on the page. Mr. Ohanessian is writing to 12:38

1 Mr. Person saying, after the first sentence where he  
2 says, "I hope all is well," "I am following up about  
3 this email seeking your support to migrate to the new  
4 2.0 DSP contract. I still don't have access to the  
5 link previously sent and was recently informed that 12:38  
6 the DSP 1.0 migrations were put on hold."

7 Do you see that?

8 A. Yes.

9 Q. Are you aware of any communication to 12:38  
10 Scoobeez that DSP 1.0 migrations had been put on  
11 hold?

12 A. Yes.

13 Q. What communications are you aware of?

14 A. I would have -- I would have told him that  
15 no DSPs were migrating and -- and they were all put 12:39  
16 on hold.

17 Q. Okay. I'm sorry. You said that to  
18 Mr. Ohanessian?

19 A. Yes.

20 Q. When did you tell him that? 12:39

21 A. I don't recall the specific date, but  
22 I've -- I've -- I've told several DSPs that there  
23 were no migrations occurring. They were all put on  
24 hold.

25 Q. When you say "put on hold," what did you 12:39

1 mean by that?

2 A. That we weren't - we weren't migrating.

3 They were put on hold.

4 Q. Okay. Did you tell Scoobeez that there  
5 could still be a potential migration down the road? 12:39

6 A. At this point, no, I wouldn't have said  
7 that.

8 Q. Okay. Put this aside.

9 Next exhibit.

10 (Discussion off the written record.) 12:40

11 (Exhibit 13 was marked.)

12 MR. WINSTON: Exhibit 13.

13 MR. DIAMANTATOS: Thank you.

14 MR. WINSTON: Exhibit 13 is a  
15 document produced by Amazon, Bates-stamped 12:40  
16 AMAZON\_E000522 to 525. It consists of an email  
17 on September 30th, 2019 from Mr. Ojeda to himself  
18 and lots of other people.

19 Q. Do you recall sending this email on  
20 September 30th, 2019? 12:41

21 A. Yes.

22 Q. And as I say, there is a long list of  
23 emails here. Are these all of the DSPs that you  
24 oversaw?

25 A. Yes. 12:41

1 of receipt of the transcript. If returned, the  
2 attached Changes and Signature Page contains any  
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4 was not requested by the deponent or a party  
5 before the completion of the deposition.

6 I further certify that I am neither counsel  
7 for, related to, nor employed by any of the parties  
8 in the action in which this proceeding was taken,  
9 and further that I am not financially or otherwise  
10 interested in the outcome of the action.

11 Certified to by me this 14th day of February, 2020.

12  
13   
14  
15

16 Tamara Chapman, CSR, RPR, CRR

17 CSR NO. 7248; Expiration Date: 04-30-21

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